

DRAFT APPENDIX D¹: Metric 4b – Program Commitments [DRAFT 3.24.14]

Source/Topic	Summary of Task or Activity	Status
A. PD*, Sec. 8.3.1 – Pretreatment Industrial Survey	Prior to assuming pretreatment program authority (i.e. prior to October 31, 2009), DEC will develop a plan to complete a state-wide survey of all industrial users (IUs) in non-delegated POTWs to identify all facilities meeting definition of categorical or significant non-categorical users (SIU).	Plan has not been completed. State-wide survey of IUs has not been conducted.
B. PD, Sec. 8.3.1 – Pretreatment Industrial Survey	DEC will periodically review and update the IU inventory.	Absent state-wide IU survey, there has been no periodic review or update.
C. PD, Sec. 8.11 – Reporting; <i>see also</i> MOA**, Sec. 5.02, No. 8	DEC will develop procedures and time frames for reviewing monitoring SIU reports, including reports submitted by POTWs and semi-annual reports submitted by categorical and significant non-categorical IUs without local programs.	Procedures and time frames have not been established.
D. PD, Sec. 8.12 – Reporting to EPA; <i>see also</i> MOA, Sec. 8.01, Table 1, No. 20	<p>DEC shall provide EPA with the following information:</p> <ul style="list-style-type: none"> • Annual report on program implementation from POTWs with approved pretreatment programs. • Pretreatment facility inspection and sampling plan for POTW audits/ PCIs and IU inspections. • Noncompliance report for all SIUs. • [MOA] Copies of SIU inspection reports, reporting results, noted violations and enforcement actions within 60 days of inspection or receipt of information 	<p>The pretreatment facility inspection and sampling plan for POTW audits and PCIs, and IU inspections has not been submitted to EPA. Based on current DEC information, it appears this plan has not been developed.</p> <p>DEC is working to implement several compliance-related reporting tools in DROPS which will facilitate preparation of these reports to EPA.</p>

	DEC will track receipt of required reports, noncompliance, inspection results and compliance dates in DROPS.	
E. PD, Sec. 9.1.1 – Annual Compliance Evaluation of Major Permittees	<p>DEC’s goal is to conduct a compliance evaluation of all major permittees at least once per calendar year prior to generation of 4th quarter QNCR in accord with Section 9.1.1, Items 1-8.</p> <p>Notification of noncompliance to permittee & enforcement action as necessary.</p> <p>All follow-up actions will be documented in DROPS.</p>	<p>DEC reports that evaluations are done by reviewing the QNCR itself. No documentation of these QNCR reviews is created and there are no results entered into DROPS on a routine basis.</p> <p>DEC will focus on prioritizing and beginning development of SOPs that have yet to be developed. A procedure for compliance evaluations will be one of the addressed items.</p>
F. PD, Sec. 9.1 – Compliance Monitoring; Sec. 9.4 – Enforcement Program; <i>see also</i> MOA, Sec. 6.03, No. 2	<p>DROPS will maintain an inventory of . . . permittee reporting requirements in permits and orders, inspection results, permittee compliance follow-up, enforcement actions and compliance schedules.</p> <p>DROPS database will aid DEC in meeting C&E obligations by generating timely reports and by providing staff immediate access to compliance information.</p> <p>[MOA] The DROPS database will track the submittal of all reports on date-related permit conditions or other schedules in effect pursuant to the permit (e.g. required reports, Notices of Violation, Administrative Orders, Consent Agreements, and court orders).</p>	<p>DROPS does not currently have an inventory of permit requirements, including reporting requirements. Deadlines or schedules for reports or actions identified in inspection reports, compliance letters, notices of violation, etc. are tracked by DEC inspectors individually on the inspector’s Outlook system</p> <p>DEC reports it is implementing compliance modules in DROPS and developing standard operating procedures for inventorying permit conditions into a standard format in the WPC (for which DROPS serves as the gateway).</p>

<p>G. PD, Sec. 9.1.3, Inspection Prioritization and Scheduling</p>	<p>Except for construction stormwater sites, DEC will use the Division of Water's <i>Wastewater Risk-Based inspection Ranking Model</i> as a guide to help prioritize and schedule inspections. The model involves a comprehensive survey using a point system to identify facilities that pose a higher risk to human health or the environment. The Model criteria and point system are incorporated into the DROPS database to generate a ranked report. DEC will use the report as a guide to develop an annual facility inspection schedule.</p>	<p>DROPS does not currently have the modules needed to accept input data related to the model criteria. DEC has not been using this model and has not generated ranked reports for annual inspection planning and scheduling purposes.</p>
<p>H. PD, Sec. 9.1.5, Post Inspection – Inspection Reports. <i>See also</i> MOA, Sec. 3.01, Items 2a) & d); Sec. 8.01, Table 1, Item 22</p>	<p>DEC will use DROPS to prepare an inspection report and an electronic copy of the inspection report will be stored in DROPS and a hard copy will be filed in the facility file. DEC will use EPA's NPDES Compliance Inspection Manual as guidance for completing an inspection report. DEC will use EPA's form 3560-3 and the APDES Inspection Report template (PD, Appendix E). DEC intends to send the final inspection report to the inspected facility.</p> <p>The cited MOA provisions are in regard to DEC informing EPA of program changes. Provisions provide in part that DEC will keep EPA fully informed and up to date regarding draft and final policy and program development documents and draft and final technical guidance and policies.</p>	<p>As part of an EPA oversight inspection of a DEC inspector in October 2012 and post-inspection oversight work, EPA was apprised that DEC had a practice of only preparing post inspection letters instead of formal inspection reports, even for major facility inspections. EPA had not been informed of this DEC practice prior to EPA's oversight inspection and post inspection work. EPA brought concerns regarding this DEC practice to DEC's attention in subsequent communications. DEC acknowledged the practice was not in accord with the Program Description and it is EPA's understanding that the practice was terminated. DEC plans to adopt an SOP and potentially applicable templates to streamline the inspection</p>

		report process for facilities where no areas of concern are identified during APDES inspections.
I. PD, Sec. 9.4 and Appendix K – Inspector Training and Credentials	Staff will have training and experience appropriate for their assigned responsibilities. Staff occupying positions where the position description includes inspections as work duties will be required to obtain approved enforcement training. <i>See, e.g.</i> PD, Appendix K, Water Division Staff Credentials for Inspector/Enforcement Officer.	In DEC PPG APDES inspection submissions for 2010-2012, a DEC Permits Unit staff person is credited with completing nine major APDES mine facility inspections. Subsequently, DEC indicated that this staff person did not have DEC issued inspector credentials.
J. PD, Sec. 9.4.6 – DOL Involvement	<ul style="list-style-type: none"> • DEC and DOL have established procedures for the routine coordination of enforcement cases, including DOL participation in the Compliance Committee and coordination of general time frames for actions from case referral to filing. • DEC shall maintain procedures to assure coordination with DOL that results in timely review of initial referred packages . . . timely filing and prosecution of referral cases. • As a general rule, DEC cases should proceed from referral to filing within 90 days. 	As of August, 2013, it is EPA's understanding that written procedures for DEC/DOL coordination have not yet been developed but are under consideration for development as standard operating procedures (SOPs).
K. PD, Sec. 9.1.4 – Types of Inspections	<ul style="list-style-type: none"> • DEC will cross-train other DEC staff and other state agencies (e.g. F&G, DNR) to provide enough knowledge to identify problems or violations when at a facility conducting other business. • Cross trained staff will report back to DEC C&E program and DEC may conduct an inspection. 	DEC reports there has been no formal cross-training activity and no current plans for cross training with other agencies. DEC indicates it regularly works with DNR and DFG in various sectors (e.g. mining, seafood and

	<ul style="list-style-type: none"> • Cross trained staff may also conduct follow-up inspections to verify a previously identified compliance issue has been addressed. 	construction).
L. MOA, Section 8.01, Table 1, Item 18, Submission of copies of all enforcement actions; Performance Partnership Grant, SFY 2014, Workplan, Sec. V.1.	DEC will transmit to EPA copies of all enforcement actions ranging from Compliance Letters to administrative and judicial actions for major and minor facilities.	DEC did not routinely submit copies of enforcement actions. It appears that this submission obligation was delegated to individual staff persons without follow-up oversight or coordination by the DEC C&E program manager. Not all DEC staff would make the requisite submissions on a routine basis. DEC's submissions under this MOA provision have been almost non-existent in the last half of CY 2012 and a substantial portion of CY 2013.
M. Performance Partnership Agreements, SFYs 2011, 2012 & 2013 (APDES Program Capacity Development and Implementation) and Performance Partnership Grant, SFY 2014	Prior to quarterly meetings, DEC will provide a summary document that details facility specific violations (e.g. based on inspections and file reviews) and DEC's enforcement response. These reports will include, in part, descriptions of the violations, date of violation, DEC enforcement response and date of DEC response.	DEC quarterly submissions, when made in response to these PPA/PPG provisions, do not contain the facility specific violations, descriptions of the violations and dates of violation.
N. Clean Water Action Plan, Integrated Work Plan, 10/31/12-6/30/13	Placer Mines – DEC will determine compliance with Annual Report (AR) submittal requirements. DEC will send compliance assistance reminder letters in fall 2012 to medium and mechanical placers in regard to the AR	DEC sent approximately 495 letters. Due to other priorities, DEC did not track the number of Annual Reports received. It is EPA's understanding that

	submission requirement. DEC will send notices of violation (NOV) for noncompliance if ARs are not submitted by January 31, 2013.	DEC did not issue NOVs as provided for in the Integrated Work Plan. DEC intends to send reminder letters again in the winter of 2013. DEC intends to use a college intern to assist with the mailing and tracking of Annual Reports received. DEC reports that Compliance Letters or Notices of Violation will be sent to permittees who fail to submit an Annual Report.
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“*” PD = APDES Program Description (Final, October 29, 2008), submitted by Alaska Department of Environmental Conservation, Amended Final Program Application (Approved: October 31, 2008).

“**” MOA = National Pollutant Discharge Elimination System Memorandum of Agreement between State of Alaska and United States Environmental Protection Agency, Region 10 (Final October 29, 2008; Amended Date August 11, 2011).

Note No. 1: This draft appendix is subject to further updating, revisions and clarifications based on additional information, reviews and feedback, including DEC feedback.